



Reprinted  
February 5, 2002

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## SENATE BILL No. 380

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DIGEST OF SB 380 (Updated February 4, 2002 4:24 PM - DI 92)

**Citations Affected:** IC 6-3.1; noncode.

**Synopsis:** Venture capital tax credit. Provides that a taxpayer that provides qualified investment capital to a qualified Indiana business is entitled to a credit against the taxpayer's state tax liability equal to 20% of the amount of the investment. Provides that the amount of credits allowed each year may not exceed \$10,000,000. Provides that a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2007.

**Effective:** July 1, 2002.

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**Johnson, Kenley, Simpson, Clark,  
Long**

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January 10, 2002, read first time and referred to Committee on Finance.  
January 22, 2002, reported favorably — Do Pass.  
February 4, 2002, read second time, amended, ordered engrossed.

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SB 380—LS 7215/DI 92+



Reprinted  
February 5, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 380

A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3.1-24 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2002]:

4       **Chapter 24. Venture Capital Investment Tax Credit**

5       **Sec. 1. As used in this chapter, "pass through entity" means:**

6           (1) a corporation that is exempt from the adjusted gross  
7 income tax under IC 6-3-2-2.8(2);

8           (2) a partnership;

9           (3) a limited liability company; or

10          (4) a limited liability partnership.

11       **Sec. 2. As used in this chapter, "qualified Indiana business"**  
12 **means an independently owned and operated business that is**  
13 **certified as a qualified Indiana business by the department of**  
14 **commerce under section 7 of this chapter.**

15       **Sec. 3. As used in this chapter, "qualified investment capital"**  
16 **means debt or equity capital that is provided to a qualified Indiana**  
17 **business.**

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1       **Sec. 4. As used in this chapter, "state tax liability" means a**  
 2       **taxpayer's total tax liability that is incurred under:**

- 3       (1) IC 6-2.1 (the gross income tax);
- 4       (2) IC 6-2.5 (state gross retail and use tax);
- 5       (3) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 6       (4) IC 6-3-8 (the supplemental corporate net income tax);
- 7       (5) IC 6-5-10 (the bank tax);
- 8       (6) IC 6-5-11 (the savings and loan association tax);
- 9       (7) IC 6-5.5 (the financial institutions tax); and
- 10      (8) IC 27-1-18-2 (the insurance premiums tax);

11      **as computed after the application of the credits that under**  
 12      **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
 13      **chapter.**

14      **Sec. 5. As used in this chapter, "taxpayer" means an individual**  
 15      **or entity that has any state tax liability.**

16      **Sec. 6. A taxpayer that provides qualified investment capital to**  
 17      **a qualified Indiana business is entitled to a credit against the**  
 18      **person's state tax liability in a taxable year equal to the amount**  
 19      **specified in section 10 of this chapter.**

20      **Sec. 7. (a) The department of commerce shall certify that a**  
 21      **business is a qualified Indiana business if the department**  
 22      **determines that the business:**

- 23      (1) **is a high growth company that:**
  - 24      (A) **is entering a new product or process area;**
  - 25      (B) **has a substantial number of employees in jobs:**
    - 26      (i) **requiring postsecondary education or its equivalent;**
    - 27      **or**
    - 28      (ii) **that are in occupational codes classified as high skill**  
 29      **by the Bureau of Labor Statistics, United States**  
 30      **Department of Labor; and**
    - 31      (C) **has a substantial number of employees that earn at**  
 32      **least one hundred fifty percent (150%) of Indiana per**  
 33      **capita personal income;**
  - 34      (2) **has its headquarters in Indiana;**
  - 35      (3) **is primarily focused on research and development,**  
 36      **technology transfers, or the application of new technology, or**  
 37      **is determined by the department of commerce to have**  
 38      **significant potential to:**
    - 39      (A) **bring substantial capital into Indiana;**
    - 40      (B) **create jobs;**
    - 41      (C) **diversify the business base of Indiana; or**
    - 42      (D) **significantly promote the purposes of this chapter in**



- 1 any other way;
- 2 (4) has had average annual revenues of less than ten million
- 3 dollars (\$10,000,000) in the two (2) years preceding the year
- 4 in which the business received qualified investment capital
- 5 from a taxpayer claiming a credit under this chapter;
- 6 (5) has:
- 7 (A) at least fifty percent (50%) of its employees residing in
- 8 Indiana; and
- 9 (B) at least seventy-five percent (75%) of its assets located
- 10 in Indiana; and
- 11 (6) is not engaged in a business involving:
- 12 (A) real estate;
- 13 (B) real estate development;
- 14 (C) insurance;
- 15 (D) professional services provided by an accountant, a
- 16 lawyer, or a physician;
- 17 (E) retail sales, except when the primary purpose of the
- 18 business is the development or support of electronic
- 19 commerce using the Internet; or
- 20 (F) oil and gas exploration.
- 21 (b) A business shall apply to be certified as a qualified Indiana
- 22 business on a form prescribed by the department.
- 23 (c) If a business is certified as a qualified Indiana business under
- 24 this section, the department shall provide a copy of the certification
- 25 to the investors in the qualified Indiana business for inclusion in
- 26 tax filings.
- 27 (d) The department may impose an application fee of not more
- 28 than two hundred dollars (\$200).
- 29 Sec. 8. (a) A certification provided under section 7 of this
- 30 chapter must include notice to the investors of the maximum
- 31 amount of tax credits available under this chapter for the provision
- 32 of qualified investment capital to the qualified Indiana business.
- 33 (b) The maximum amount of tax credits available under this
- 34 chapter for the provision of qualified investment capital to a
- 35 particular qualified Indiana business equals the lesser of:
- 36 (1) the total amount of qualified investment capital provided
- 37 to the qualified Indiana business in the calendar year,
- 38 multiplied by twenty percent (20%); or
- 39 (2) five hundred thousand dollars (\$500,000).
- 40 Sec. 9. (a) The total amount of tax credits that may be allowed
- 41 under this chapter in a particular calendar year may not exceed
- 42 ten million dollars (\$10,000,000).

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(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2007.

Sec. 10. Subject to sections 8 and 13 of this chapter, the amount of the credit to which a taxpayer is entitled under section 6 this chapter equals the product of:

- (1) twenty percent (20%); multiplied by
- (2) the amount of the qualified investment capital provided to a qualified Indiana business by the taxpayer in the taxable year.

Sec. 11. If a pass through entity is entitled to a credit under section 6 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 12. If the amount of the credit determined under section 10 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof that the taxpayer provided qualified investment capital to a qualified Indiana business and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

(b) The department shall record the time of filing of each return claiming a credit under section 6 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the calendar year.



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1       (c) If the total credits approved under this section equal the  
2       maximum amount allowable in a calendar year, a return claiming  
3       the credit filed later in that calendar year may not be approved.

4       SECTION 2. [EFFECTIVE JULY 1, 2002] IC 6-3.1-24, as added  
5       by this act, applies to taxable years beginning after December 31,  
6       2002.

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SENATE MOTION

Mr. President: I move that Senator Kenley be added as second author and Senator Simpson be added as coauthor of Senate Bill 380.

JOHNSON

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 380, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 380 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 15, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Clark be added as coauthor of Senate Bill 380.

JOHNSON

SENATE MOTION

Mr. President: I move that Senator Long be added as coauthor of Senate Bill 380.

JOHNSON

SENATE MOTION

Mr. President: I move that Senate Bill 380 be amended to read as follows:

Page 1, delete lines 5 through 7.

Page 1, line 8, delete "2." and insert "1."

Page 1, line 14, delete "3." and insert "2."

Page 1, line 15, delete ":" and insert **"is certified as a qualified Indiana business by the department of commerce under section 7 of this chapter."**

Page 1, delete lines 16 through 17.

Page 2, delete lines 1 through 20, begin a new paragraph and insert: **"Sec. 3. As used in this chapter, "qualified investment capital" means debt or equity capital that is provided to a qualified Indiana business."**

Page 2, line 21, delete "5." and insert "4."

Page 2, line 34, delete "6." and insert "5."

Page 2, line 36, delete "7." and insert "6."

Page 2, line 36, delete "makes an investment of seed venture".

Page 2, line 37, delete "capital or early stage venture capital in" and insert **"provides qualified investment capital to"**.

Page 2, line 39, delete "8" and insert "10".

Page 2, between lines 40 and 41, begin a new paragraph and insert: **"Sec. 7. (a) The department of commerce shall certify that a business is a qualified Indiana business if the department determines that the business:**



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- (1) is a high growth company that:
- (A) is entering a new product or process area;
  - (B) has a substantial number of employees in jobs:
    - (i) requiring postsecondary education or its equivalent; or
    - (ii) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor; and
  - (C) has a substantial number of employees that earn at least one hundred fifty percent (150%) of Indiana per capita personal income;
- (2) has its headquarters in Indiana;
- (3) is primarily focused on research and development, technology transfers, or the application of new technology, or is determined by the department of commerce to have significant potential to:
- (A) bring substantial capital into Indiana;
  - (B) create jobs;
  - (C) diversify the business base of Indiana; or
  - (D) significantly promote the purposes of this chapter in any other way;
- (4) has had average annual revenues of less than ten million dollars (\$10,000,000) in the two (2) years preceding the year in which the business received qualified investment capital from a taxpayer claiming a credit under this chapter;
- (5) has:
- (A) at least fifty percent (50%) of its employees residing in Indiana; and
  - (B) at least seventy-five percent (75%) of its assets located in Indiana; and
- (6) is not engaged in a business involving:
- (A) real estate;
  - (B) real estate development;
  - (C) insurance;
  - (D) professional services provided by an accountant, a lawyer, or a physician;
  - (E) retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or
  - (F) oil and gas exploration.
- (b) A business shall apply to be certified as a qualified Indiana business on a form prescribed by the department.

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(c) If a business is certified as a qualified Indiana business under this section, the department shall provide a copy of the certification to the investors in the qualified Indiana business for inclusion in tax filings.

(d) The department may impose an application fee of not more than two hundred dollars (\$200).

Sec. 8. (a) A certification provided under section 7 of this chapter must include notice to the investors of the maximum amount of tax credits available under this chapter for the provision of qualified investment capital to the qualified Indiana business.

(b) The maximum amount of tax credits available under this chapter for the provision of qualified investment capital to a particular qualified Indiana business equals the lesser of:

- (1) the total amount of qualified investment capital provided to the qualified Indiana business in the calendar year, multiplied by twenty percent (20%); or
- (2) five hundred thousand dollars (\$500,000).

Sec. 9. (a) The total amount of tax credits that may be allowed under this chapter in a particular calendar year may not exceed ten million dollars (\$10,000,000).

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2007."

Page 2, line 41, delete "8. The" and insert "**10. Subject to sections 8 and 13 of this chapter, the**".

Page 2, line 42, delete "7" and insert "**6**".

Page 3, line 2, delete "investment of seed venture capital or".

Page 3, line 3, delete "early stage venture capital in" and insert "**qualified investment capital provided to**".

Page 3, line 4, delete "made".

Page 3, line 5, delete "9." and insert "**11.**".

Page 3, line 6, delete "7" and insert "**6**".

Page 3, line 15, delete "10." and insert "**12.**".

Page 3, line 15, delete "8" and insert "**10**".

Page 3, line 23, delete "11." and insert "**13. (a)**".

Page 3, line 26, delete "of the investment of".

Page 3, line 27, delete "seed venture capital or early stage venture capital in" and insert "**that the taxpayer provided qualified investment capital to**".

Page 3, between lines 30 and 31, begin a new paragraph and insert:  
**"(b) The department shall record the time of filing of each**

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return claiming a credit under section 6 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the calendar year.

(c) If the total credits approved under this section equal the maximum amount allowable in a calendar year, a return claiming the credit filed later in that calendar year may not be approved."

(Reference is to SB 380 as printed January 23, 2002.)

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